

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/25/24

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERC SPECIALISTS, LLC,	:	
	:	
Plaintiff,	:	
-against-	:	
	:	24-cv-8044 (VEC)
	:	
FRAUD.NET, INC.,	:	<u>ORDER</u>
	:	
Defendant.	:	
-----X		

VALERIE CAPRONI, United States District Judge:

WHEREAS on October 23, 2024, Plaintiff filed its Complaint, Compl., Dkt. 1;

WHEREAS Plaintiff alleged that this Court's subject matter jurisdiction in this matter is premised on diversity, *id.* ¶ 4;

WHEREAS the Complaint alleged that Plaintiff ERC Specialists, LLC is a limited liability company that has its principal place of business in Orem, Utah, *id.* ¶ 6;

WHEREAS the Court ordered Plaintiff to file an amended complaint to cure certain deficiencies; namely, to include allegations as to the place of Plaintiff's organization; the place of incorporation and principal place of business of any corporate entities that are members of Plaintiff; or the citizenship of any natural persons who are members of Plaintiff, if any, *see* Dkt. 4; *Jean-Louis v. Carrington Mortg. Servs., LLC*, 849 F. App'x 296, 298 (2d Cir. 2021); *Handelsman v. Bedford Vill. Assocs. L.P.*, 213 F.3d 48, 51–52 (2d Cir. 2000); *see also, e.g., In re Bank of Am. Corp. Sec., Derivatives, and ERISA Litig.*, 757 F. Supp. 2d 260, 334 n.17 (S.D.N.Y. 2010);

WHEREAS Plaintiff filed its First Amended Complaint on October 23, 2024, Am. Compl. Dkt. 5;

WHEREAS Plaintiff now alleges that Utah is both its place of organization and where it has its principal place of business, *id.* ¶ 6;

WHEREAS Plaintiff also alleges that “[n]one of [its] members are citizens or residents of the State of New York or Delaware,” *id.* ¶ 7;

WHEREAS an allegation that a party “is a citizen of a different state . . . is insufficient to show that the diversity requirement is met because, standing alone, it is entirely conclusory,” *Carter v. HealthPort Techs., LLC*, 822 F.3d 47, 60 (2d Cir. 2016); *see also Kenshoo, Inc. v. Aragon Advert., LLC*, 586 F. Supp. 3d 177, 180 (E.D.N.Y. 2022) (collecting cases from district courts in this Circuit holding that “allegations that a party is a citizen of a different state, or that none of the members of a defendant limited liability company are citizens of the same state as the plaintiff” do not meet the plausibility standard to invoke diversity jurisdiction); *New Millennium Cap. Partners, III, LLC v. Juniper Grp. Inc.*, No. 10 CIV. 46(PKC), 2010 WL 1257325, at *1 (S.D.N.Y. Mar. 26, 2010) (“A complaint premised upon diversity of citizenship must allege the citizenship of natural persons who are members of a limited liability company and the place of incorporation and principal place of business of any corporate entities who are members of the limited liability company.” (citing *Handelsman v. Bedford Village Associates Ltd. Partnership*, 213 F.3d 48, 51–52 (2d Cir. 2000))); and

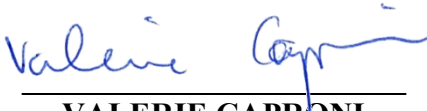
WHEREAS Plaintiff has alleged only the legal conclusion that its members are not citizens of New York or Delaware and has not alleged facts to support this conclusion.

IT IS HEREBY ORDERED that by no later than **Friday, November 1, 2024**, Plaintiff must file a second amended complaint that cures the deficiencies described herein or the complaint will be dismissed without prejudice for lack of subject matter jurisdiction. Specifically, Plaintiff is directed to allege the place of incorporation and principal place of

business of each of its members that are corporate entities, as well as the domicile of any of its members that are natural persons.

SO ORDERED.

Date: October 25, 2024
New York, New York



VALERIE CAPRONI
United States District Judge